

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 15-13224

Agency No. 12-CA-026644

G4S REGULATED SECURITY SOLUTIONS,
A Division of G4S Secure Solutions (USA) Inc.,
f.k.a. The Wackenhut Corporation,

Petitioner - Cross Respondent,

versus

NATIONAL LABOR RELATIONS BOARD,

Respondent - Cross Petitioner.

Petitions for Review of a Decision of the
National Labor Relations Board

(November 21, 2016)

Before TJOFLAT and HULL, Circuit Judges, and BYRON,^{*} District Judge.

PER CURIAM:

Appellant G4S Regulated Security Solutions (“G4S”) appeals from the order of the National Labor Relations Board (the “Board”). On charges filed by two former G4S employees, the Board’s General Counsel issued a complaint against G4S. The complaint alleged that G4S suspended and discharged the two former employees for engaging in “protected concerted activities,” in violation of section 8(a)(1) of the National Labor Relations Act (the “Act”), 29 U.S.C. § 158(a)(1). The two former employees are Thomas Frazier and Cecil Mack.

The Administrative Law Judge (“ALJ”) conducted a three-day hearing, reviewed the parties’s briefing, and issued a sixteen-page Decision. The ALJ dismissed the complaint, finding that the employees were “statutory supervisors” under section 2(11) of the Act and not entitled to the Act’s protection.

The Board’s General Counsel filed an administrative appeal, and on September 28, 2012, a panel of the Board reversed the ALJ. The panel held that the former employees were not statutory supervisors and remanded to determine whether G4S had unlawfully suspended and discharged them in retaliation for engaging in their protected activity. On remand, the ALJ issued a November 16, 2012 Supplemental Decision, finding that G4S had done so, in violation of the Act.

^{*} Honorable Paul G. Byron, United States District Judge, for the Middle District of Florida, sitting by designation.

G4S then appealed this Supplemental Decision. On April 30, 2013, a panel of the Board affirmed.

On June 26, 2014, the United States Supreme Court, in NLRB v. Noel Canning, 134 S. Ct. 2550 (2014), invalidated President Obama's recess appointments for two of the appellate panel Board members in this case. Following Noel Canning, the Board set aside its September 28, 2012 and April 30, 2013 Board decisions. A panel consisting of new Board members was then created, and it reviewed de novo the ALJ's Decision and Supplemental Decision. In a June 25, 2015 Decision and Order, the new Board panel affirmed the ALJ's findings that the former employees were protected by the Act and that G4S had violated the Act in discharging the former employees.

G4S filed a petition for review of the June 25, 2015 Board Decision and Order in this Court. On August 27, 2015, the Board filed a cross-petition for enforcement.

After review of the record and with the benefit of oral argument, the Court concludes that substantial evidence supports the Board's findings of fact and that there was no reversible error in the Board's conclusions of law. We accordingly deny G4S's petition for review, grant the Board's cross-petition for enforcement, and affirm the order of the Board.

AFFIRMED.